

*New Provision in Defense Authorization Bill Builds on Previous Hinchey Amendment*

*Washington, DC* - As Congress puts the finishing touches on the Fiscal Year 2012 National Defense Authorization Bill (NDAA), Congressman Maurice Hinchey (D-NY) is working to strengthen a Buy American solar provision he successfully attached to last year's version of the bill. The provision Hinchey authored requires that any solar energy panels purchased by the Department of Defense through subcontracts are made in the U.S., according to Buy American Act standards. A new provision would tighten up the current law, but differences in the Senate and House language remain. Hinchey wrote to the House and Senate Armed Services Chairmen and Ranking Members urging adoption of the Senate language, which is more detailed and specific.

"I urge you to retain Sec. 827, "Applicability of Buy American Act to Procurement of Photovoltaic Devices by Department of Defense," in the Senate-passed NDAA bill, S.1867," Hinchey wrote. "The language in the FY12 NDAA would take positive steps to strengthen and clarify current law. Both the Senate and House provisions expand on Sec. 846 of the FY11 NDAA, which I authored in the 111th Congress. Unfortunately, the spirit of this provision has not been followed. In the past year, the Department has signed a number of various energy purchase contracts that could still utilize foreign-manufactured solar panels. Rather than supporting China's growing solar industry, it is my strong belief that these contracts should support American solar manufacturers and American jobs whenever possible."

The language in the Senate bill strengthens the Hinchey provision by simplifying the definition of photovoltaic devices. The 2011 Hinchey provision signed into law last year, defined photovoltaic devices as "devices that convert light directly into electricity through a solid-state, semiconductor process." The 2012 provision would more broadly define photovoltaics as devices that "convert light directly into electricity."

The Senate language also improves and clarifies a provision that applies Buy American provisions to photovoltaic devices purchased through subcontracts. Hinchey's 2011 language applies Buy American standards to photovoltaic devices reserved for the "exclusive use" of the Department of Defense for the full economic life of the device. The Senate language simply requires that the devices generate power consumed "predominantly" by the Department of Defense and counted toward federal renewable energy purchase requirements.

The House language, which Hinchey believes would also improve on his 2011 language, offers the same definition for photovoltaic devices as the Senate provision. While the language also provides an improvement with regard to the application of Buy American provisions to solar energy purchased through subcontracts, Hinchey believes the Senate language is more specific and preferable.

The full text of Hinchey's [letter](#) to the conferees follows:

December 9, 2011

Dear Chairman Levin, Senator McCain, Chairman McKeon, and Representative Smith:

As you work to resolve differences between the House and Senate versions of the Fiscal Year 2012 National Defense Authorization Act (NDAA), I urge you to retain Sec. 827, "Applicability of Buy American Act to Procurement of Photovoltaic Devices by Department of Defense," in the Senate-passed NDAA bill, S.1867. This amendment was approved by unanimous consent in the Senate and a similar provision was included in the House version of the bill with bipartisan support (Sec. 842).

The language in the FY12 NDAA would take positive steps to strengthen and clarify current law. Both the Senate and House provisions expand on Sec. 846 of the FY11 NDAA, which I authored in the 111th Congress. Unfortunately, the spirit of this provision has not been followed. In the past year, the Department has signed a number of various energy purchase contracts that could still utilize foreign-manufactured solar panels. Rather than supporting China's growing solar industry, it is my strong belief that these contracts should support American solar manufacturers and American jobs whenever possible.

As co-chair and co-founder of the House's Defense Energy Security Caucus, I have had ample opportunity to discuss the necessity of energy security with Department of Defense officials. The Department knows the importance of implementing photovoltaic solar arrays at our military facilities. It is in our national security and economic interest that these contracts comply with the Buy American Act.

I deeply appreciate your leadership on this issue and ask that you maintain this critical section while you work to resolve differences in between the House and Senate bills in conference.

Sincerely,

Maurice D. Hinchey

Member of Congress